

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2101 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

ATMARAM PUNAMCHAND

Appearance:

MR HARDIK C RAWAL for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

DS AFF.NOT FILED (N) for Respondent No. 2

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 18/08/1999

ORAL JUDGEMENT

1. Learned advocate, Mr. Hardik Rawal, seeks permission to delete respondent No.2 from the record of First Appeal. Permission is granted. Amendment be carried out forthwith.

2. The appellant, by filing this appeal under

Section 173 of the Motor Vehicles Act, 1988, has challenged the judgment and award dated February 19, 1999 passed by the Motor Accident Claims Tribunal, Morvi, in M.A.C. Petition No.358 of 1998, in so far as it relates to award of interest by the Tribunal in favour of respondent No.1-original claimant.

2. Respondent No.1-original claimant sustained injuries in a vehicular accident which took place on February 27, 1989 at about 4.30 p.m. when he was travelling as a passenger in S.T. Bus bearing No.9270, which was en-route from Ahmedabad to Wankaner. The original claimant filed M.A.C. Petition No.358 of 1998 against the appellant to recover compensation to the tune of Rs.66,000/- for rash and negligent driving by respondent No.2.

4. The claim petition was opposed by the appellant and respondent No.2 by filing their written statements. The Tribunal, on over all appreciation of oral as well as documentary evidence, awarded a sum of Rs.44,600/- as compensation for the injuries sustained by respondent No.1 in the vehicular accident, with interest at the rate of 15% per annum from the date of filing of the claim petition within 30 days from the date of receipt of judgment and award, failing which, the appellant will be liable to pay interest at the rate of 18% per annum.

5. The appellant has filed this appeal challenging the judgment and award of the Tribunal qua award of interest in favour of the original claimant on the amount of compensation at the rate of 15% per annum from the date of filing of the claim petition within 30 days from the date of receipt of judgment and award, and 18% per annum thereafter.

6. The Division Bench of this Court (Coram: J.M. Panchal & M.C. Patel, JJ.), by judgment and order dated October 15, 1998, rendered in First Appeal No.1110 of 1998, held that, in the claim petition under the Motor Vehicles Act, 1988, the interest should be awarded at the rate of 12% per annum from the date of filing of petition till realisation. This Court has also taken the same view following the aforesaid decision of the Division Bench of this Court as well as the decision of the Apex Court in the case of Muthaiah Sekhar vs. Nesamony TPT Corporation Ltd, reported in 1998 (7) SCC 39. In view of the settled legal principles, the interest awarded by the Tribunal at the rate of 15% and 18% respectively deserves to be quashed and set aside.

7. For the foregoing reasons, the appeal partly succeeds. Respondent No.1-original claimant shall be entitled to interest at the rate of 12% per annum on the amount of compensation from the date of application till realisation. If the amount is deposited by the appellant within 30 days, the amount of compensation of Rs.44,600/awarded by the Tribunal shall carry interest at the rate of 12% and, if the amount is not deposited within 30 days, the amount of compensation shall carry interest at the rate of 15%. The award accordingly stands modified. There shall be no order as to costs.

(swamy)